

THE POWER TANGO

between the PM and the president

Reforms ahead of the national election have been the most consistent pledge of the interim government. One of the core reforms, apart from reviving the caretaker government system, is to bring about a balance of power between the prime minister and the president.

For years, critics have warned that the immense constitutional powers vested in the prime minister risk fostering authoritarianism, with the post of president remaining largely ceremonial, devoid of substantive authority.

The July charter proposes curbing the PM's overarching powers and strengthening the role of the president.

"To prevent the emergence of a fascist regime in the future, there must be a balance of power," said Prof Ali Riaz, vice president of the National Consensus Commission.

Political parties have long stressed the need for a mechanism to prevent the concentration of power in the hands of the head of the government.

"Nearly all institutions are subject to the prime minister's unilateral control. The president is constitutionally bound to act on the advice of the prime minister. In effect, the president holds no independent authority," added Riaz.

The charter proposes that the president be elected by a simple majority in both houses of parliament, and individuals holding a position in any political party would be ineligible

Following independence, Bangladesh adopted a parliamentary system of government. However, the country transitioned to a presidential form through the fourth amendment to the constitution in 1975.

The parliamentary system was reinstated in 1991 through the 12th amendment, designating the prime minister as the executive head of the government and the president as the constitutional head of state.

At present, the post of president is largely ceremonial. Real executive authority lies with the PM, who is the most powerful political actor with control over the executive, strong influence over the legislature, and



indirect dominance over other state organs.

In reality, the president acts on the PM's advice in almost all matters.

WHAT JULY CHARTER SAYS

The July Charter proposes empowering the president to independently make certain appointments including that of the chairman and members of the National Human Rights Commission; the Information Commission; Bangladesh Press Council; the Law Commission; the Energy Regulatory Commission; and the Bangladesh Bank governor.

However, BNP and several other parties voiced dissent over the appointments relating to the central bank and the energy regulator.

According to the charter, based on recommendations from specific search panels, the president will appoint the chief election commissioner and other election commissioners; ombudsman; chairman and members of the Public

Service Commission and the Anti-Corruption Commission, and the comptroller and auditor general. The process will not involve the prime minister.

BNP and like-minded parties issued notes of dissent over appointments based on panel recommendations which, according to them, would be ad hoc and not accountable to anyone. They called for legislation to ensure a stronger, more transparent framework.

Prof Nizam Ahmed, an expert in parliamentary affairs, said that the curtailment of the PM's powers would not create any problems.

He also welcomed the idea of appointing the CEC and other commissioners through a search panel, with the president making the final selection.

The charter proposes that the president be elected by a simple majority in both houses of parliament, and individuals holding a position in any political party would be ineligible.

PRESIDENT WILL MAKE APPOINTMENTS REGARDING

- National Human Rights Commission
- Energy Regulatory Commission
- Public Service Commission
- Anti-Corruption Commission
- Comptroller and Auditor General
- Bangladesh Bank governor

BNP issued notes of dissent on all except for appointments relating to NHRC

The president will have the authority to grant pardon or reduce any sentence but this authority will have to be exercised in line with procedures prescribed by law.

"While some of the president's powers will be expanded, the position will be simultaneously brought under a system of accountability," Ali Riaz said.

PM'S POWERS

According to the charter, most political parties agreed that an individual may serve as PM for a maximum of 10 years.

The charter proposes that an MP would be barred from holding the office of PM and remain party chief at the same time. However, BNP and several like minded parties issued a note of dissent on the matter.

"The aim here is to create a degree of separation between the party and the government, thereby reducing the concentration of power in the hands of the prime minister," Ali Riaz said.

Until now, the same individual has held the positions of PM, the leader of the House, and the head of the ruling party, exercising unilateral control over the government, parliament, and the party. And there is no limit on the PM's tenure.

Nizam Ahmed noted that the proposed 10-year cap stems from lessons learnt during the tenure of the Sheikh Hasina-led government.

"We need this change," said Nizam, a former teacher at the public administration department of Chittagong University.

He, however, expressed caution regarding the proposal that an individual should not simultaneously hold the post of the PM and serve as the head of a political party.

"In the long run, this could impact party structures... 'Without strong political parties, democracy itself may falter,'" he warned.

Al Masud Hasanuzzaman, a former teacher at the government and politics department of Jahangirnagar University, said, "There are uncertainties about whether the matters noted with dissent will be implemented. If not, the expected balance of power between the president and the prime minister may never materialise.

"Plenty of theoretical ideas are there [in the charter], but what will happen in practice remains to be seen," he said.

A dozen new laws for SYSTEM REBOOT

It will require at least a dozen new laws and amendments to eight existing ones to implement the raft of proposals made in the July National Charter.

These laws are needed to strengthen oversight, promote good governance and accountability, and address the long-standing legal gaps that have fostered impunity, politicisation, and corruption, said members of the consensus commission that facilitated dialogue between political parties.

The parties agreed to enact laws for presidential pardon; appointments of the comptroller and auditor general (CAG), and the chairman and members of the Public Service Commission; a code of conduct for election commissioners; administrative autonomy for the judiciary; and

the whims of any individual or group.

NEW LAWS

The charter states that the president will be authorised to pardon or reduce any sentence, but the procedure must adhere to the principles prescribed by a new law, which will require the consent of the complainant or the victim's family.

Iftekharuzzaman, a member of the consensus commission, said the charter has proposed enacting laws to regulate the appointments of the CAG and the chairman and members of the PSC. It also calls for amendments to existing laws governing the appointment process of election commissioners, the Ombudsman, and the Anti-Corruption Commission.



"These laws are primarily related to state institutions, which are meant to serve the public interest, not the interests of those in power."

Iftekharuzzaman,
a member of the National Consensus Commission

independent criminal investigation, among others.

They also reached a consensus that reforms which don't require constitutional changes can be implemented through ordinances and executive orders.

Consensus commission Vice President Ali Riaz said the overarching objective is to establish an accountable state and strengthen its institutions so that the country is not governed by

According to the charter, there should be a new law and a code of conduct to ensure the accountability of election commissioners, and another to regulate special rights of parliamentary committees and its members.

The charter calls for enactment of a Supreme Court secretariat law, leading to an autonomous administrative body for the SC with financial independence. The secretariat will

be responsible for administrative functions of subordinate courts, their budgets as well as promotions, transfer, and disciplinary regulation of subordinate court judges.

It also proposes Independent Criminal Investigation Service Act to create an impartial body for investigating criminal offences, free from political or bureaucratic influence.

There needs to be a law to prevent corruption and money laundering through concealment of actual ownership of institutions. This law will create a framework to keep records and publicly disclose all details of owners of companies, trusts, and foundations.

Another new law would end state practices that legitimise income without a lawful source, while Audit Act would ensure independent auditing.

The charter also proposes a beneficial ownership law to prevent conflicts of interest and the misuse of state and legal authority to amass undisclosed or hidden assets.

Iftekharuzzaman, also the head of Transparency International Bangladesh, said the new laws would

ensure good governance and secure government accountability.

These laws are primarily related to state institutions, which are meant to serve the public interest, not the interests of those in power."

AMENDMENT TO EXISTING LAWS

The Right to Information Act, 2009, would be reviewed and amended to ensure citizens have easier and uninterrupted access to government service information. Additionally, registered political parties would be brought under the purview of this law, according to the charter.

The Official Secrets Act, 1923, would be reviewed and amended to facilitate timely and easier access to information for citizens.

Electoral laws would be reformed to strengthen transparency and integrity in political and election financing. Political parties and election candidates must publicly disclose details about their sources of funding, income and expenditure.

The EC, with support from the National Board of Revenue and the ACC, would verify the accuracy of candidates' financial disclosures in

their affidavits and take appropriate action in case of discrepancies.

All elected public representatives would be required to submit annual statements of income and assets for themselves and their family members to the EC within three months of taking office. These statements would be published on the commission's website.

Political parties would be barred from appointing or nominating individuals involved in corruption or misconduct to party positions or as election candidates.

A provision of the Anti-Corruption Commission Act, 2004, would be repealed, exempting the corruption watchdog from the requirement of prior government approval for filing cases against judges, magistrates, or government officials.

Another provision of the law would also be amended to reduce the tenure of commissioners from five years to four.

The Legal Aid Services Act, 2000, would be repealed, and a new ordinance, "Legal Aid and Mediation Services Ordinance, 2025", would be promulgated.